



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2019-0216; FRL-10000-38-Region 5]

**Air Plan Approval; Ohio; Second Maintenance Plan for 1997 Ozone
NAAQS; Dayton-Springfield**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), Ohio's plan for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) through 2028 in the Dayton-Springfield area. The Dayton-Springfield area consists of Clark, Greene, Miami and Montgomery Counties. The Ohio Environmental Protection Agency submitted this state implementation plan (SIP) revision to EPA on April 12, 2019.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2019-0216. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <http://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, dagostino.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. What is being addressed in this document?

This rule approves Ohio's April 23, 2019 submission of a plan to provide for maintenance of the 1997 ozone standard in the Dayton-Springfield area through 2028. The Dayton-Springfield area was designated as nonattainment for the 1997 ozone NAAQS on April 15, 2004 (69 FR 23857) and subsequently redesignated to attainment on August 13, 2007 (72 FR 45169). As a prerequisite to redesignation, Ohio developed a maintenance plan for the Dayton-Springfield area as required by CAA section 175A. The maintenance plan demonstrated that the area would continue to maintain the 1997 ozone standard through 2018 (more

than 10 years after redesignation) and contained contingency provisions to assure that violations of the standard would be promptly corrected.

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. On April 12, 2019, Ohio submitted a second maintenance plan for the Dayton-Springfield area demonstrating continued maintenance of the 1997 ozone NAAQS through 2028, i.e., through the end of the full 20-year maintenance period.

On July 9, 2019 (84 FR 32678), EPA proposed to approve Ohio's April 12, 2019 submittal. The specific details of Ohio's second 1997 ozone NAAQS maintenance plan for the Dayton-Springfield area and the rationale for EPA's approval are discussed in the notice of proposed rulemaking and will not be restated here.

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the July 9, 2019, proposed rule. The comment period ended on August 8, 2019. We received no comments on the proposed rule.

III. What action is EPA taking?

EPA is approving, as a revision to the Ohio SIP, the State's plan for maintaining the 1997 ozone NAAQS through 2028 in the Dayton-Springfield area.

IV. Statutory and executive order reviews.

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: September 11, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (e) is amended under the subheading “Summary of Criteria Pollutant Maintenance Plan” by revising the entry for “Ozone 8-Hour” for Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties) with a State date of 11/6/2006 to read as follows:

§ 52.1870 Identification of plan.

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(e) * * *

EPA--APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *				
Summary of Criteria Pollutant Maintenance Plan				
* * * * *				
Ozone (8-Hour, 1997)	Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties)	4/12/2019	<u>[insert the date of publication in the Federal Register]</u> , [insert Federal Register citation]	2 nd maintenance plan
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